THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.18347 OF 2006

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ORAL ORDER:

The petitioners herein claim to be the devotees of Sri Uma Gouriswara Swamy vari Temple at Uttrimilli village, Ramachandrapuram Mandal, East Godavari District. It is stated that Ac.6.36 cents of land situated in Sy.Nos.24 & 25 of Uttrimilli village, Ramachandrapuram Mandal belonging to the 1st respondent-Temple has been leased out to the cultivating tenants and the amount derived is being utilized for the maintenance and the annual celebrations of the temple. While so, the Endowments Department proposed to alienate a part of the said land to an extent of Ac.4.36 cents in the year 1998. However, the said proposal was dropped on the objections raised by the villagers. Subsequently, in May 2006 when the 2nd respondent-Assistant Commissioner of Endowments did not allow the existing tenants to cultivate the land, the villagers came to know that the said land was sold to the Revenue Department for assigning the land as house sites to landless poor under Indiramma Programme taken up by the State Government as a matter of policy.

While attempts were being made to take over physical possession of the lands in question, W.P.No.10547 of 2006 was filed by A.P. Archaka Samakya, challenging similar alienations/acquisitions of the Temple lands all over the State. A Division Bench of this Court having entertained the said writ petition by order dated 30.5.2006 in W.P.M.P.No.13204 of 2006 granted interim stay of all further proceedings in relation to the acquisition of lands belonging to the temples all over the State.

However, the 1st respondent-Temple claimed that the land in question has already been taken over by the Revenue Department for distribution of house sites. Hence, this writ petition seeking a

declaration that the action of the 1st respondent-Temple in handing over possession of the land in question to the Revenue Department as arbitrary and illegal.

A counter-affidavit has been filed by the Assistant Commissioner of Endowments stating that the 1st respondent-Temple is classified as an institution under Section 6(c) of Act 30 of 1987 and that the land in question was originally leased out to the cultivating tenants. However even after the expiry of the original tenant, the land continued to be in the occupation of some strangers who claimed to be the legal heirs of the original tenant. It is also stated that the notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act') was issued on 25.5.1996 for acquisition of Ac.4.36 cents of land out of a total extent of Ac.6.36 cents for the purpose of providing house sites to weaker sections. Challenging the said notification, W.P.No.6175 of 1996 was filed by one Sathemma claiming rights of tenancy. The said writ petition was disposed of by this Court with a direction to consider the objections raised by the petitioner therein. In compliance with the orders of this Court, an enquiry was conducted; however, the petitioner in W.P.No.6175 of 1996 failed to submit any objection. In the circumstances, the Revenue Department deposited a sum of Rs.2,59,280 towards 80% of compensation on 15.3.1996 which was kept in the fixed deposit. Even thereafter, possession of the land remained with the 1st respondent-Temple and the tenant continued to cultivate the same. In the meanwhile, Statutory Rules were made vide G.O.Ms.No.379 dated 11.3.2003 regulating leases of agricultural lands under Act 30 of 1987. In terms of the said Rules, a notice under Rule 5 was issued to the tenant calling upon to hand over the possession of land in question within 30 days. Having received the said notice, the tenant made a request to grant leasehold rights for another three years. The request of the tenant was considered, subject to the condition that the land would be handed over to the Revenue Department as and when

required. Subsequently, Smt. Sathemma died in the year 2004. However, her legal heirs continued in possession without any valid lease and they also filed W.P.No.27921 of 2005 seeking a *mandamus* restraining the respondents from interfering with their right of cultivation.

In the meanwhile, the possession of the land in question was handed over to the Mandal Surveyor on 16.12.2005. As on today, the said land remained vacant and there are no crops. Thus, it is contended that the action of the respondents in handing over possession to the Mandal Surveyor following due process of law cannot be held to be arbitrary and illegal.

I have heard the learned counsel for both the parties and perused the material on record.

As could be seen from the counter-affidavit filed by the 2nd respondent, the contents of which remained unrebutted, the land in question was acquired by publishing the notification dated 25.5.1996 under Section 4(1) of the Act. It is also clear that 80% of the compensation was paid on 15.3.1996 as required under law. Though possession was not taken immediately thereafter, according to the respondents, physical possession of the land was delivered to the Mandal Surveyor, Ramachandrapuram on 16.12.2005.

It is true that the validity and legality of the sale of Endowment lands in favour of the Government as well as the acquisition of such lands invoking the provisions of the Act is the subject-matter of W.P.Nos.11812 of 2005 and 10547 of 2006, pending on the file of this Court. However, the fact remains that the notification under Section 4(1) of the Act acquiring the land in question was issued on 25.5.1996 and even 80% of the compensation was paid long back to the 1st respondent-Temple. It appears that subsequently, the tenant at the relevant point of time filed W.P.No.7001 of 1999 challenging the acquisition proceedings, but the same was dismissed by this Court by order dated 11.8.2004. It is also the specific case of the

respondents that physical possession of the land was already handed over to the Mandal Surveyor on 16.12.2005. In the circumstances, the impugned action of the respondents cannot be held to be in violation of the interim orders dated 30.5.2006 granted by this Court in W.P.No.10547 of 2006. I am also not inclined to hold that the action of the 1st respondent in handing over possession of the land to the Revenue Department is illegal on any of the grounds whatsoever, since the same was consequent to the acquisition under the provisions of the Land Acquisition Act following due process of law. Hence, the *mandamus* as prayed for cannot be issued.

Accordingly, the writ petitioner is dismissed. No costs.

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G. ROHINI, J.

July 10, 2007.
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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.18347 OF 2006

10th July, 2007.

Between:

Nalla Durga Prasad alias Durga Rao and others. .. Petitioners.

And

Sri Umagouriswara Swamyvari Temple,
Uttrumilli village, Ramachandrapuram Mandal,
East Godavari District, represented by its
Person-in-Management/Executive Officer and
others. .. Respondents.